

IN THE UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No: 1:19-cv-04801
MDL No. 2570

This Documents Relates to Plaintiff(s):
DEAN BOYSTER

Civil Case No. 1:19-cv-04801

**MOTION TO SUBSTITUTE PARTY PLAINTIFF AND FOR LEAVE TO FILE
AMENDED SHORT FORM COMPLAINT**

COMES NOW, Plaintiff Dean Boyster and files this motion to substitute his surviving niece, Britney Guevara, as the proper plaintiff pursuant to Federal Rule of Civil Procedure 25(a)(1). In support therefore, Plaintiff respectfully shows the court the following:

1. Plaintiff Dean Boyster filed the present action in the United States District Court of the Southern District of Indiana on December 05, 2019.
2. Plaintiff Dean Boyster died on or about December 22, 2020.
3. On February 25, 2025, Plaintiff filed a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a). See Doc. No. 26507. Plaintiff's counsel recently learned of the death of Dean Boyster after contacting his niece.
4. Britney Guevara, surviving niece of Dean Boyster, is the proper party plaintiff to substitute for Plaintiff-decedent Dean Boyster and has proper capacity to proceed forward with the surviving products liability lawsuit on Plaintiff-decedent's behalf, pursuant to Fed. R. Civ. P. 25(a)(1), stating, "[i]f a party dies, and the claim is not extinguished, the court may order substitution of the proper party. A motion for

substitution may be made by any party or by the decedent's successor or representative."

5. Plaintiff thus moves to substitute Britney Guevara, as the personal representative of the Estate of Dean Boyster, deceased, as Plaintiff in the present action.
6. Plaintiff also moves to amend the Complaint, as well as the caption of the Complaint, to correct the proper Plaintiffs (specifically Britney Guevara, as personal representatives of the Estate of Dean Boyster, deceased) and to update and include information, allegations, and actions within the Complaint to reflect that Plaintiff Dean Boyster is now deceased.
7. A proposed First Amended Short Form Complaint is attached hereto as Exhibit A.
8. Pursuant to Federal Rules of Civil Procedure 15(a)(2), a party may amend its pleading only with the opposing party's written consent or the Court's leave. The Court should freely give leave when justice so requires.

WHEREFORE, counsel for Plaintiff requests this Court for the following relief (1) the Court substitute Britney Guevara as the personal representative of the Estate of Dean Boyster, deceased, as Party Plaintiff for Dean Boyster; (2) the Court grant leave to file the attached First Amended Short Form Complaint; Case 1:19-cv-04801 and (3) the Court deem the attached First Amended Short Form Complaint filed instant. A proposed Order is attached hereto as Exhibit B.

Date: February 25, 2025

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/s/Basil Adham

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CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2025, a copy of the foregoing was served electronically and notice of the service of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system.

/s/Basil Adham